

REMARKS

This responds to the Office Action mailed on January 27, 2009.

Claim 30 is amended, no claims are canceled, and claims 35-42 are added; as a result, claims 1-3, 7, 8, 10-12, 30-33, and 35-42 are now pending in this application.

35 USC §103 Rejection of the Claims

Claims 1-3, 7, 8, 10-12 and 30-33 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fukazu et al. (U.S. Publication No. 2002/0011327) or Gottmann et al. (U.S. Publication No. 2003/0157386), in view of Thomas et al. (U.S. Patent No. 5,752,011).

Applicants traverse this rejection on the basis that a *prima facie* case of obviousness has not been presented because (1) the means-plus-function limitations should be given patentable weight; and (2) the cited references fail to teach the subject matter of the claims.

The means-plus-function limitations should be given patentable weight

The Examiner has not given patentable weight to the means-plus-function limitations in claims 1 and 30.

A claim limitation will be interpreted to invoke 35 USC § 112, sixth paragraph, if it meets the following 3-prong analysis: (A) the claim limitations must use the phrase “means for” or “step for;” (B) the “means for” or “step for” must be modified by functional language; and (C) the phrase “means for” or “step for” must not be modified by sufficient structure, material or acts for achieving the specified function. See MPEP § 2181.1.

The Examiner alleges that the phrase “in response to temperature” recites structure that modifies the “means for” phrase, and therefore requirement (C) is not meant. Applicants respectfully disagree. Claim 1 recites “means for controlling an operating frequency of the microprocessor in response to the temperature”, and claim 30 recites “means for controlling a voltage provided to the integrated circuit in response to the temperature”. Applicants respectfully submit that in this context, the phrase “in response to the temperature” does not recite any structure.

Accordingly, Applicants respectfully submit that the means-plus-function limitations in claims 1 and 30 should be given patentable weight.

The cited references fail to teach the subject matter of the claims

As stated above, Applicants traverse the rejection under 35 U.S.C. § 103(a) on the basis that a *prima facie* case of obviousness has not been presented because the cited references fail to teach the subject matter of the claims.

Unless an element performs the identical function specified in the claim, it cannot be an equivalent for the purposes of 35 USC § 112, sixth paragraph. *Pennwalt Corp. v. Durand-Wayland, Inc.*, 833 F.2d 931, 4 USPQ2d 1737 (fed. Cir. 1987), *cert. denied*, 484 U.S. 961 (1988); See also MPEP 2184.II.

The examiner admits in the office action mailed July 3, 2008 that the cited references “do not disclose the means for this purpose”, where “this purpose” refers to reducing a clock frequency or voltage. See pg. 4, ll. 1-2, 14-17 of the office action mailed July 3, 2008. Accordingly, no equivalent has been shown to exist in the prior art.

In view of the above, applicants respectfully submit that independent claims 1 and 30 are in condition for allowance. Further, applicants respectfully submit that dependent claims 2, 3, 7, 8, 10-12, and 31-35 are in condition for allowance at least by virtue of dependency.

New Claims

Claims 35-42 have been added. Claim 35 depends from claim 30 and is believed to be in condition for allowance at least by virtue of dependency. Claims 36 and 40 are new independent claims. Both claims 36 and 40 recite structure that result in a structural difference between the claimed invention and the cited references. For example, claim 36 recites “a controller coupled to control a voltage provided to the integrated circuit in response to the temperature” and claim 40 recites “a controller coupled to control an operating frequency of the microprocessor in response to the temperature”. Applicants respectfully submit that these limitations result in structural differences from the cited references. Accordingly, Applicants believe claims 36 and 40 are in condition for allowance. Further, Applicants believe claims 37-39, 41, and 42 are in condition for allowance at least by virtue of dependency.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (952-473-8800) to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 50-4238.

Respectfully submitted,

MICHAEL J. ROCKE ET AL.

By their Representatives,

CUSTOMER NUMBER: 45445

Telephone Number: 952-473-8800

Date May 27, 2009 By /Dana B. LeMoine/
Dana B. LeMoine
Reg. No. 40,062